

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #1	CCRB Case #: 201902529	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/22/2019 5:30 AM	Location of Incident: § 87(2)(b)	Precinct: 79	18 Mo. SOL 9/22/2020	EO SOL 5/9/2021	
Date/Time CV Reported Sat, 03/23/2019 11:47 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 03/23/2019 11:47 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			NARCBBN
2. DT3 John Montoni	1371	949357	NARCBBN
3. DT3 Mark Gurleski	4879	948043	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Rosiello	20090	951180	NARCBBN
2. LT John Costin	00000	903693	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Mark Gurleski	Abuse: Detective Mark Gurleski searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 John Montoni	Abuse: Detective John Montoni entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
D.DT3 John Montoni	Abuse: Detective John Montoni searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

§ 87(2)(b) called the CCRB and filed the following complaint on March 23, 2019.

On March 22, 2019, at approximately 5:30a.m., officers from Brooklyn North Narcotics arrived at § 87(2)(b)'s apartment located at § 87(2)(b). The officers had an arrest warrant for her son, § 87(2)(b). § 87(2)(b) allowed the officers, including Detective Mark Gurleski of Brooklyn North Narcotics, into the apartment (**Allegation A - Abuse of Authority:** § 87(2)(g)). § 87(2)(b) pointed out § 87(2)(b)'s bedroom door and the officers arrested § 87(2)(b). After the arrest, Det. Gurleski, remained in the apartment. PO Gurleski allegedly searched a dryer in § 87(2)(b)'s bedroom and removed clothes from inside as he waited for a search warrant (**Allegation B – Abuse of Authority:** § 87(2)(g)). Detective John Montoni from Brooklyn North Narcotics returned with a search warrant and officers searched the apartment (**Allegations C and D – Abuse of Authority:** § 87(2)(g)).

There are no videos associated with this case, including body worn camera videos.

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers entered § 87(2)(g), in Brooklyn.

§ 87(2)(b) stated that officers arrived at her apartment, she opened the door and Det. Gurleski told her that they had a warrant for her son, § 87(2)(b). § 87(2)(b) confirmed that § 87(2)(b) was present in the apartment, stepped to the side of the doorway and pointed out his bedroom door. Other than these actions, she did not verbally tell officers they could enter (Board Review 01).

Det. Gurleski stated that warrants officers spoke with § 87(2)(b) and he did not know how they gained initial entry into the apartment because he stood approximately 15 feet away in the hallway. He did not know who the warrants officers were. Once § 87(2)(b) was in handcuffs, Det. Gurleski entered the apartment (Board Review 02).

Arrest warrant § 87(2)(b), dated § 87(2)(b), specifically named § 87(2)(b) as the defendant and listed § 87(2)(b)'s address and apartment number (Board Review 09).

According to Criminal Procedure Law 120.80(4), police may enter the home to effect the arrest if they reasonably believe the defendant is present, and if it's the defendant's home. (Board Review 10)

According to People v. Brown 234 A.D.2d 211 (App. Div. 1996), it was held that an individual's actions of opening the door, leaving it wide open, and walking away could be interpreted as tacit approval for them to enter (Board Review 03).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Detective Mark Gurleski searched § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that after officers handcuffed § 87(2)(b) and removed him from the apartment, Det. Gurleski remained in the bedroom and opened a clothing dryer located in the room and took out the clothes that were inside. At that point, Det. Gurleski had not yet obtained a search warrant for the apartment.

Det. Gurleski testified that he observed a dryer inside of § 87(2)(b)'s bedroom that he assumed was non-functional and doubled as a table since there was a sheet draped over it. The dryer had marijuana joints and a gravity knife on top, in plain view. Upon observing this, he called Det. Montoni to obtain a search warrant for the apartment. Det. Gurleski denied opening or searching the dryer while he waited for Det. Montoni and the search warrant.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Detective John Montoni entered § 87(2)(b), in Brooklyn.

Allegation (D) Abuse of Authority: Detective John Montoni searched § 87(2)(b), in Brooklyn.

It is undisputed that officers entered and searched § 87(2)(b) in Brooklyn pursuant to a search warrant that was obtained by Det. Montoni.

Search warrant § 87(2)(b) was signed on § 87(2)(b) by Honorable Kings County Criminal Court Judge § 87(2)(b) (Board Review 04).

As per Criminal Procedure Law 690.05, officers may enter and search a location for which they have a valid search warrant (Board Review 05).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 08).
- Det. Montoni has been a member of service for nine years and has been a subject in three CCRB complaints and four allegations, none of which have been substantiated § 87(2)(g).
- Det. Gurleski has been a member of service for 11 years and has been the subject in three CCRB complaints and three allegations, none of which have been substantiated § 87(2)(g).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of November 21, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 1

Investigator:	<u>SI Harold Rodriguez</u>	<u></u>	<u>4/27/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date